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Sender		Date	Client-Matter	Fax Transmittal	
Charles Guttman		December 11, 2001	76138/111		
Sender's Voice Number	Main Fax Operator's Number	Room Number	Pages (incl. cover)		
212.969.3180	212.969.5050 (Voice)	1728	7		
To	Company	Fax Number	Voice Number		
Examiner T. To	U.S. PTO - Group Art Unit 3661	(703) 305-7687	703-308-3873		
		703-308-8623			

Message

Re: Applicant : Thomas LENZ, et al.
 Serial No. : 09/618,853
 Filing Date : July 18, 2000
 Title : PROCESS FOR AUTOMATIC
 DRIVE SLIP CONTROL (ASR)
 Att'y Docket : 76138/111

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Examiner T. To:

Attached please find the following in response to the Office Action dated October 11, 2001:

1) **Request for Reconsideration**

Please contact Charles Guttman at (212) 969-3180 if there are any questions.

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Attorney Docket No.: 76138/111

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group Art Unit: 3661
Examiner: T. TO*Response*
G. Burns
12/10/02

Applicant : Thomas LENZ, et al.

Serial No. : 09/618,853

Filed : July 18, 2000

For : PROCESS FOR AUTOMATIC
DRIVE SLOP CONTROL (ASR)

Assistant Commissioner for
Patents & Trademarks
Washington, D.C. 20231

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<i>Diane Rose</i>	December 11, 2001
Signature	

REQUEST FOR RECONSIDERATION

Sir:

Responsive to the Office Action dated October 11, 2001, applicants respectfully request reconsideration of the grounds for rejection contained therein.

Claims 1-9 are pending in the application. Of the foregoing, only claim 9 is independent.

In the Office Action dated October 11, 2001, the Examiner rejected claims 1-9 under 35 U.S.C. 102(a) "as being unpatentable by Schramm et al. (U.S. 5,884,719)." The Examiner gave certain reasons for entering this rejection based on this patent (which will be discussed below), but only cited to column 1, lines 60-67, column 2, lines 1-35, and column 5, lines 11-35.

Applicants respectfully traverse this rejection for the reasons set forth below.

In the first place, the Examiner applied the wrong legal standard for a rejection under 35 U.S.C. 102(a). As is well known, a rejection under 35 U.S.C. 102(a) can only be met if a single

prior art reference completely "anticipates" the claimed invention. This means, the single prior art reference must disclose each and every limitation of the claimed invention. It is inappropriate for a rejection to be entered under 35 U.S.C. 102(a) because a reference renders the claimed invention "unpatentable," i.e., obvious at the time of the invention to a person of ordinary skill in the art. Accordingly, the Examiner has applied the wrong legal standard for a rejection under 35 U.S.C. 102(a) in entering the rejection.

Additionally, the Examiner has utterly failed to show how the Schramm et al. patent (hereinafter, the '719 patent) meets each and every limitation of the claimed invention or even renders them obvious. Thus, claim 1 is directed to a method for adjusting the normal drive slip value of an ASR system in a vehicle equipped with an ASR system and operating in a rear wheel drive mode. The method in claim 1 requires:

(a) evaluating dynamic values associated with the front wheels of the vehicle;

and

(b) if the dynamic values associated with the front wheels exceed a threshold value, increasing the normal drive slip value of the rear wheels.

The Examiner has utterly failed to show where in the '719 patent these limitations, particularly limitation (b), are disclosed or even suggested. Thus, with respect to claims 1, 3, 4, and 6-9 the Examiner stated on page 2 of the Office Action that the '719 reference discloses an apparatus and a method for controlling drive slip. The Examiner further stated that column 1, lines 60-67, and column 2, lines 1-35, describe a situation where the vehicle requires traction. In a case where the driver travels through a rough terrain or mountain road with a high coefficient of friction, the driver pushes the accelerator pedal more, thereby decreasing the desired slip, but in a case where the surface of the road has a low coefficient of friction, such as deep snow or ice, the driver actuates the accelerator pedal less, thereby increasing the desired slip.

It is simply not seen in this explanation given by the Examiner where limitations (a) and (b) above are disclosed or suggested in the '719 patent. The Examiner's explanation does not refer to limitations (a) and (b) either explicitly or implicitly. The Examiner seems to have completely missed the point of the present invention which is to adjust the drive slip value of the rear (driven) wheels based upon whether or not certain dynamic values associated with the front (non-driven) wheels, e.g., their acceleration values, exceed certain threshold values.

Turning to the '719 patent itself, this reference does indeed disclose a method for adjusting the drive slip value in a vehicle equipped with an ASR system and operating in a rear wheel drive mode. Beyond that, there is no similarity to the claimed invention. The drive slip value according to the '719 patent is adjusted "by determining a driver's command based on at least one of gas pedal position and engine RPM's as the measured operating value, determining the desired slip as a function of the driver's command, and increasing the desired slip with an increasing driver's command." See column 1, line 66, to column 2, line 3. This method is very different from the invention of claim 1. Column 5, lines 12-37, describes that the speeds of the driven and non-driven wheels are accepted as inputs in order to calculate the speed of the vehicle and the actual slip value. However, this passage proceeds to describe that a desired slip value based on the gas pedal position and/or the engine RPM's is also determined, and when the difference between the actual slip values and the desired slip values exceed a threshold, the engine torque is reduced and possibly an associated wheel brake is actuated. As stated above, there is no disclosure or suggestion of the claimed invention, particularly limitation (b) above, i.e., increasing the normal drive slip value of the rear wheels if the dynamic values associated with the front wheels exceed a threshold value.

As claim 1 is neither disclosed nor suggested by the '719 patent, it is submitted that this claim is not anticipated under 35 U.S.C 102(a) or rendered unpatentable under 35 U.S.C 103(a)

by the '719 patent. Additionally, as all of the other claims in the application depend upon claim 1, and therefore incorporate its limitations by reference, they too are neither anticipated nor rendered unpatentable by the '719 patent. However, for the sake of completeness, applicants will discuss the dependent claims individually as well.

Claim 2 specifies that the dynamic values of claim 1 are the acceleration values for each of the front wheels. The Examiner stated that the '719 patent discloses that "the speeds of the non-driven front wheels are inputted in the first step of determining the desired drive slip." With all due respect, the "speeds" of the non-driven wheels are not the same as their acceleration values. Furthermore, as discussed above, the speeds of the non-driven wheels are inputted in the '719 patent merely for the purpose of calculating the actual slip values, not the desired slip values as asserted by the Examiner.

Claim 3 depends from claim 2 and specifies that the normal drive slip value is increased if the difference between the front wheel acceleration values exceeds a given threshold. The Examiner did not identify any location in the '719 patent where this particular limitation is disclosed or suggested, and indeed none can be found.

Claim 4 specifies that the method further comprises determining whether high frequency oscillations are occurring in the rear wheels, and if so, not increasing the normal drive slip value of the rear wheels. The Examiner has not identified any location in the '719 patent where this particular limitation is disclosed or suggested, and indeed none can be found.

Claim 5 specifies that the method of claim 1 further comprises determining whether the vehicle is traveling in a curve, and if so, not increasing the normal drive slip value of the rear wheels. With respect to this limitation, the Examiner stated that column 2, lines 1-14, discloses determining the desired slip as a function of the driver's command and increasing the drive slip with an increasing driver's command. The Examiner concluded that therefore, if the vehicle

travels in a curve, the drive slip value will not be increased. The disclosure at column 2, lines 1-14, says absolutely nothing about determining whether the vehicle is traveling in a curve or not, and not increasing the normal drive slip value if it is. The Examiner's statement that in the '719 patent, if the vehicle travels in a curve, the drive slip value will not be increased, is purely speculation and finds no basis whatsoever in the '719 patent itself. It is simply a hindsight effort by the Examiner to reconstruct the invention specified in claim 5.

Claims 6-9 depend from claim 1 and further specify that the increase in normal drive slip value is limited in dependence on the current vehicle speed, and the rate at which the normal drive slip value is increased depends on the current vehicle speed, the vehicle acceleration, or the position of the accelerator of the vehicle, respectively. The Examiner has not identified any location in the '719 patent wherein these particular limitations are disclosed or suggested, and indeed none can be found.

Accordingly, it is submitted that claims 2-9 are also neither disclosed nor suggested by the '719 patent, irrespective of the disposition of claim 1.

Finally, it is noted that the applicants filed Information Disclosure Statements with PTO-1449 forms on July 18, 2000, September 12, 2000, and January 4, 2001. However, only the PTO-1449 form filed on September 12, 2000 was returned to the applicants with the Examiner's initials contained thereon. Nor have the applicants ever received a PTO-1449 form listing U.S. 5,082,081 (Tsuyama et al.) which the Examiner relied upon in rejecting the claims in the Office Action dated May 31, 2001. Applicants submit herewith copies of the PTO-1449 forms filed with the PTO on July 18, 2000, and January 4, 2001. Applicants request the Examiner return these PTO-1449 forms together with his initials to indicate that this prior art has been considered. Applicants further request that the Examiner list any other prior art considered by him, such as the Tsuyama et al. reference, on a PTO-1449 form to be sent to the applicants.

Attorney Docket No.: 76138/111

In view of the foregoing, a favorable action on the merits is respectfully requested.

Respectfully submitted,

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Date: 12/11/01

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Attachments: PTO 1449 Forms from July 18, 2000 and January 4, 2001.